

II. REMARKS

Claims 1-16 are pending in this application, and claims 10-16 are withdrawn. By this Amendment, claims 1-9 are amended and claims 6 and 9 are canceled. Support for the amendments can be found in the specification and in the claims as originally filed. In particular, claim 1 is amended to incorporate the limitations of claims 6 and 9. Additionally, Claims 1-9 are amended to correct the typographical errors noted by the Examiner and to further clarify the presently claimed invention. Thus, Applicants believe that no new matter is added. Applicants respectfully request reconsideration and withdrawal of all rejections.

Claims 1-9 have been rejected under 35 U.S.C. § 112, second paragraph, for the asserted indefiniteness. Applicants traverse the rejection of claim 4.

Applicants submit that the rejections under 35 U.S.C. § 112, second paragraph, have been overcome by the cancellation of claims 6 and 9 and the above amendments to claims 1-5, 7, and 8.

Applicants disagree with the Examiner's assertion that claim 4 is "incomplete for omitting essential elements," specifically the "pressure that is sufficient such that there is no risk of breaking the skin in the said area, whilst imposing a maximum pressure for effective penetration of the said liquid" (Office Action, page 3, lines 15-19) (internal quote omitted). Applicants respectfully submit that one of ordinary skill in the art would understand what is claimed when the claim is read in light of the specification.

Applicants submit that 35 U.S.C. § 112, 2nd paragraph, does not require a listing of all possible threshold pressures. In Orthokinetics, Inc. v. Safety Travel Chairs, Inc., the Federal Circuit held that a claim limitation specifying that a certain part of a pediatric wheelchair be "*so dimensioned*" as to be insertable through the space between the

doorframe of an automobile and one of the seats" was not impermissibly indefinite. Orthokinetics, Inc. v. Safety Travel Chairs, Inc., 806 F.2d 1565, 1576 (Fed. Cir. 1986). The Federal Circuit noted, "The phrase 'so dimensioned' is as accurate as the subject matter permits, automobiles being of various sizes. ... As long as those of ordinary skill in the art realized that the dimensions could be easily obtained, § 112, 2d ¶ requires nothing more. The patent law does not require that all possible lengths corresponding to the spaces in hundreds of different automobiles be listed in the patent, let alone that they be listed in the claims." Id.

Applicants submit that it is well known in the art that skin breakage occurs only when a very precise threshold of pressure is reached. Although the exact threshold pressure may vary according to the patient, Applicants submit that one of ordinary skill in the art can determine this threshold pressure by simple tests on the skin of each patient. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 1-9 under 35 U.S.C. § 112, second paragraph

Claims 1-5 have been rejected under 35 U.S.C. § 102(b) over Bode et al. (DE 19606433, English abstract only). Applicants traverse the rejection.

Present claim 1 is directed to a "method for the treatment of an area of the skin... comprising the steps of abrading a portion of stratum corneum, followed by spraying a pressurised liquid onto the area to be treated by means of a spray nozzle, and sucking the sprayed liquid with an intent to discharge it" (emphasis added).

In contrast, Applicants submit that Bode et al. merely discloses "a pneumatic or hydraulic pressure medium for applying a treatment product in the form of a cream, a liquid, or a gas to the required skin area via an application jet" (Bode et al., abstract). In

other words, Applicants submit that Bode et al. merely discloses a process for injecting cosmetic substances on the skin with a spraying device which utilizes a pressurized liquid jet. Applicants submit that Bode et al. does not teach or suggest the preliminary step of "abrading a portion of stratum corneum" or the step of "sucking the sprayed liquid with an intent to discharge it" (present claim 1). As such, as Bode et al. does not teach or suggest all of the elements of the presently claimed invention, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 1-5 under 35 U.S.C. § 102(b) over Bode et al.

Claims 1-4 and 6 have been rejected under 35 U.S.C. 102(b) over the commercially available product OFF!®. Applicants traverse the rejection.

Applicants submit that OFF!® is merely an insect repellent and those utilizing OFF!® do not "[abrade] a portion of stratum corneum" prior to spraying. Applicants submit the directions for use for an OFF!® repellent spray, obtained from <http://offprotects.com/insect-bites>, which state:

Do not apply over cuts, wounds or irritated skin. Do not apply to excessive sunburned or damaged skin.

(emphasis added). Further, Applicants disagree with the Examiner's assertion that the "[u]se of OFF!® inherently comprises the step of 'sucking sprayed liquid with a view of discharging it" (Office Action, page 5, lines 9-10). Rather, Applicants submit that after the spraying of OFF!® repellent, the sprayed liquid remains on the skin and it not sucked from the skin. In contrast, present claim 1 is directed to "sucking the sprayed liquid with an intent to discharge it."

Applicants note that the sucking of the sprayed liquid from the surface of the skin causes a hyperemia, or a dilation of the blood vessels on the surface of the skin, which has the double advantage of facilitating the penetration of the solution into the epidermis and activating the healing mechanism. Further, Applicants note that the healing mechanism regenerates the skin and leads to its rejuvenation. Additionally, the sucking of the sprayed liquid has the important effect of preventing any inopportune projection of the said liquid.

For at least the above reasons, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 1-4 under 35 U.S.C. § 102(b) over the commercially available product OFF![®].

Claims 1-4 and 9 have been rejected under 35 U.S.C. § 102(b) over Fitzjarrell (U.S. Patent No. 5,989,523). Applicants traverse the rejection.

Applicants submit that Fitzjarrell does not teach or suggest the spraying of a jet of “pressurized liquid onto the area to be treated,” much less the “sucking [of] the sprayed liquid” (present claim 1) (emphasis added). Rather, Applicants submit that Fitzjarrell merely discloses a “topical spray for application to the skin for the treatment of acne” (Fitzjarrell, col. 1, lines 6-7). For at least the above reasons, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 1-4 and 9 under 35 U.S.C. § 102(b) over the Fitzjarrell.

Claims 2 and 3 have been rejected under 35 U.S.C. § 103(a) over Bode et al. in view of Yu et al. (U.S. Patent No. 5,962,526). Applicants traverse the rejection.

As discussed above, Applicants submit that Bode et al. does not teach or suggest the preliminary step of “abrading a portion of stratum corneum” or the step of “sucking the

sprayed liquid with an intent to discharge it” (present claim 1). Applicants submit that Yu et al. does not satisfy the deficiencies of Bode et al., as Yu et al. merely discloses the “topical treatment of disease conditions” (Yu et al., col. 1, lines 24-25). Applicants submit that Yu et al. does not teach or suggest the steps of “abrading a portion of stratum corneum” or “sucking the sprayed liquid” (present claim 1). Applicants submit that the step of abrasion of the stratum corneum is notable in the presently claimed invention, because it allows the active agents contained in the sprayed liquid to penetrate deeply into the epidermis (specification, page 8, lines 3-7).

For at least the above reasons, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 2 and 3 under 35 U.S.C. § 103(a) over Bode et al. in view of Yu et al.

Claim 9 is rejected under 35 U.S.C. § 103(a) over Bode et al., in view of Rhoades (U.S. Publication No. 2001/0018061). Applicants traverse the rejection.

As discussed above, Applicants submit that Bode et al. does not teach or suggest all of the elements of the presently claimed invention. Applicants submit that Rhoades does not satisfy the deficiencies of Bode et al. Rather, Applicants submit that Rhoades merely discloses a “composition... including a case and a plurality of abrasive particles” (Rhoades, paragraph 0012). Applicants submit that Rhoades does not teach or suggest “spraying a pressurized liquid,” let alone “sucking the sprayed liquid with an intent to discharge it” (present claim 1). Therefore, Applicants submit that the combination of Bode et al. and Rhoades does not teach or suggest all the elements of the claimed invention.

For at least the above reasons, Applicants respectfully request reconsideration and withdrawal of the rejection of claim 9 under 35 U.S.C. § 103(a) over Bode et al. in view of

Rhoades.

Claims 6-7 have been rejected under 35 U.S.C. § 103(a) over Bode et al. in view of Hirota (U.S. Patent No. 5,894,963). Applicants traverse the rejection.

As discussed above, Bode et al. does not teach or suggest the preliminary step of “abrading a portion of stratum corneum” or the step of “sucking the sprayed liquid with an intent to discharge it” (present claim 1). Applicants submit that Hirota does not satisfy the deficiencies of Bode et al. Rather, Applicants submit that Hirota merely discloses “a pump mechanism for ejecting liquid which can eject a fixed amount of a given liquid, such as a liquid medicine, at a time in the form of a spray or jet” (Hirota, col. 1, lines 5-7). Applicants submit that Hirota does not teach or suggest a step of “abrading a portion of stratum corneum” (present claim 1). Therefore, Applicants submit that the combination of Bode et al. and Hirota does not teach or suggest all the elements of the claimed invention.

For at least the above reasons, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 6-7 under 35 U.S.C. § 103(a) over Bode et al. in view of Hirota.

Claim 8 has been rejected under 35 U.S.C. § 103(a) over Bode et al. in view of Yu et al. and further in view of Laughlin (U.S. Patent Publication No. 2002/0000237).

As discussed above, Applicants submit that neither Bode et al. nor Yu et al. disclose a step of “abrading a portion of stratum corneum” (present claim 1). Applicants submit that Laughlin does not satisfy the deficiencies of Bode et al. and Yu et al. Rather, Applicants submit that Laughlin merely discloses “systems for automatically coating the human body or selected parts thereof with predetermined fluids” (Laughlin, paragraph 0002). Applicants submit that Laughlin does not teach or suggest the step of “abrading a portion

of stratum corneum.” Therefore, Applicants submit that the combination of Bode et al. in view of Yu et al., and further in view of Laughlin does not teach or suggest all the elements of the claimed invention.

For at least the above reasons, Applicants respectfully request reconsideration and withdrawal of the rejection of claim 8 under 35 U.S.C. § 103(a) over Bode et al. in view of Yu et al. and further in view of Laughlin.

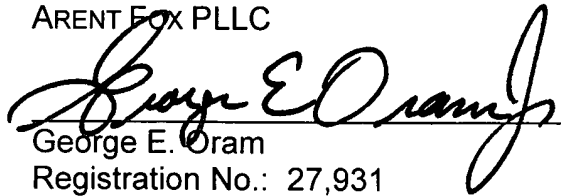
III. CONCLUSION

Applicants respectfully submit that this application is in condition for allowance and such action is earnestly solicited. If the Examiner believes that anything further is desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the telephone number listed below to schedule a personal or telephone interview to discuss any remaining issues.

In the event this response is not timely filed, the Applicants hereby petition for an appropriate extension of time. The fee for this extension, along with any other additional fees which may be required with respect to this response, may be charged to Deposit Account No. 01-2300, referencing Attorney Docket No. **021305-00201**.

Respectfully submitted,

ARENT FOX PLLC



George E. Oram

Registration No.: 27,931

Customer No.: **004372**

1050 Connecticut Avenue, N.W.
Washington, D.C. 20036-5339

Telephone No.: 202-857-6000
Facsimile No.: 202-857-6395

GEO/YYK:yyk

Enclosures: Website page
One (1) Month Petition for Extension of Time